



DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Negotiation of a Renewal of the Reciprocal Defense

**Procurement Memorandum of Understanding with the Ministry
of Defense of Japan**

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Request for public comments.

SUMMARY: On behalf of the U.S. Government, DoD is contemplating a renewal of Reciprocal Defense Procurement Memorandum of Understanding with the Ministry of Defense of Japan. DoD is requesting industry feedback regarding its experience in public defense procurements conducted by or on behalf of the Japanese Ministry of Defense or Armed Forces.

DATES: Comments must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Submit comments to Defense Pricing and Contracting, Attn: Mr. Gregory D. Snyder, 3060 Defense Pentagon, Room 3B938, Washington, DC 20301-3060; or by email to gregory.d.snyder.civ@mail.mil.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory D. Snyder, telephone 703-614-0719.

SUPPLEMENTARY INFORMATION: DoD has concluded a Reciprocal Defense Procurement Memorandum of Understanding (RDP MOU) with each of the 27 “qualifying” countries at the level of

the Secretary of Defense and his counterpart. The purpose of an RDP MOU is to promote rationalization, standardization, and interoperability of conventional defense equipment with allies and other friendly governments. These RDP MOUs provide a framework for ongoing communication regarding market access and procurement matters that enhance effective defense cooperation.

RDP MOUs generally include language by which the Parties agree that their defense procurements will be conducted in accordance with certain implementing procedures. These procedures relate to—

- Publication of notices of proposed purchases;
- The content and availability of solicitations for proposed purchases;
- Notification to each unsuccessful offeror;
- Feedback, upon request, to unsuccessful offerors concerning the reasons they were not allowed to participate in a procurement or were not awarded a contract; and
- Provision for the hearing and review of complaints arising in connection with any phase of the procurement process to ensure that, to the extent possible, complaints are equitably and expeditiously resolved.

Based on the RDP MOU, each country affords the other country certain benefits on a reciprocal basis consistent with national laws and regulations. The benefits that the United States accords to the products of qualifying countries include the following:

- Offers of qualifying country end products are evaluated without applying the price differentials otherwise required by the Buy American statute and the Balance of Payments Program.
- The chemical warfare protection clothing restrictions in 10 U.S.C. 2533a and the specialty metals restriction in 10 U.S.C. 2533b(a)(1) do not apply to products manufactured in a qualifying country.
- Customs, taxes, and duties are waived for qualifying country end products and components of defense procurements.

If DoD (for the U.S. Government) renews an RDP MOU with the Ministry of Defense of Japan, then Japan would continue to be listed as one of the "qualifying countries" in the definition of "qualifying country" at Defense Federal Acquisition Regulation Supplement (DFARS) 225.003, and offers of products of Japan, or that contain components from Japan, would continue to be afforded the benefits available to all qualifying countries. This also means that U.S. products would continue to be exempt from any analogous "Buy Japan" laws or policies applicable to

procurements by the Japan Ministry of Defense or Armed Forces.

While DoD is evaluating Japan's laws and regulations in this area, DoD would benefit from U.S. industry's experience in participating in Japan's public defense procurements. DoD is, therefore, asking U.S. firms that have participated or attempted to participate in procurements by or on behalf of Japan's Ministry of Defense or Armed Forces to let us know if the procurements were conducted with transparency, integrity, fairness, and due process in accordance with published procedures, and if not, the nature of the problems encountered.

DoD is also interested in comments relating to the degree of reciprocity that exists between the United States and Japan when it comes to the openness of defense procurements to offers of products from the other country.

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